



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/047,252 03/24/98 MELLOTT

P S1022/8047

EXAMINER

LM02/0510

JAMES H MORRIS
WOLF GREENFIELD & SACKS
600 ATLANTIC AVENUE
BOSTON MA 02210

PENDLETON, R

ART UNIT

PAPER NUMBER

2747

DATE MAILED:

05/10/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/047,252

Applicant(s)

MELLOTT, PASCAL

Examiner

Brian T. Pendleton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1,3-17 and 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2000 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some * c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) _____.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 14) ☒ Notice of References Cited (PTO-892)
- 15) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 16) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 17) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 18) ☐ Notice of Informal Patent Application (PTO-152)
- 19) ☐ Other: _____.

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DETAILED ACTION

Allowable Subject Matter

The indicated allowability of claims 2-10 and 18-21 is withdrawn in view of the newly discovered reference(s) to Smith. Rejections based on the newly cited reference(s) follow.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the capacitor recited in claim 9 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 5 and 6 recite the limitation "digital means" in line 10. There is insufficient antecedent basis for this limitation in the claim.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 5-6 and 9 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for an automatic volume controller for broadcast signals, does not reasonably provide enablement for any software routines. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. The apparatus claimed by the applicant represents a hardware implementation of attenuating means. Although the specification does mention software routines, there is no specific steps and/or methods to implement these routines as the specification does not mention any type of microprocessor to run such routines. Per claim 9, Applicant recites a capacitor, which is not shown in the drawings, coupled to a reference voltage and output terminal of a current sourcing/sinking comparator. The specification only states that the control signal can be implemented by the capacitor. Examiner has not assigned any weight to such a statement and determines the description to be non-enabled as the control signal does not appear to need a capacitor to be implemented and "current sourcing/sinking" is not described in the specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 7, 8, 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith, US Patent 5,533,136. Smith discloses a circuit for attenuating commercial interruptions comprising receiving circuitry 100 and 102, amplitude limiting circuitry comprising signal comparators 50a-50d which have rectifier 52a and lowpass filter 54a for providing an output signal in response to the input signal, comparator 56a for providing a control signal to digital logic circuit 60 which sends a control signal to attenuators 80. Inherently, the system has user volume control means since it is part of a radio system. Per claims 3 and 4, the attenuator 80 has digital hardware circuitry (figure 4, TTL control Q1). Per claims 7 and 8, there is disclosed a comparator, attenuator and a rectifier and low pass filter. Regarding claim 15, Smith's invention is directed to radio broadcast.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Dasilva, US Patent 4,654,610. Smith discloses a circuit for automatically

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attenuating broadcast signals comprising attenuating means 80. However, Smith does not disclose that element 80 is a multiplying digital-to-analog converter, which is interpreted as a switched resistive control circuit (see page 11 line 11 of the specification). Dasilva discloses a switched resistive control circuit. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the circuit of Dasilva in the invention of Smith. As stated in the abstract, the use of the signal attenuator of Dasilva provides selectable levels of signal attenuation, which would allow more flexibility than discrete levels, a desirable feature.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith. Smith does not disclose that the comparator has a capacitor coupled to its output. However, it was obvious to one of ordinary skill in the art at the time of invention that capacitors are used for current sinking.

Claims 11-14, 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith. Examiner makes Official Notice that broadcast signals can be interpreted as radio, satellite, television, cable, et cetera. Smith only discusses radio signals, however, in light of the Official Notice, it would have been obvious to one of ordinary skill in the art at the time of the invention to extend the functionality of the Smith invention to satellite and television signals since both types of signal are also subjected to volume level fluctuations.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian T. Pendleton whose telephone number is (703) 305-9509. The examiner can normally be reached on M-F 7-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen can be reached on (703) 305-4386. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-9508 for regular communications and (703) 308-5403 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



FORESTER W. ISEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2700

btp
May 8, 2000